

**REMARKS:**

In response to the Office Action of September 3, 2003, Applicant respectfully requests reconsideration of the application in light of the following remarks. Claim 48 has been amended in clarification. No new matter has been added.

The Examiner has rejected claims 27, 30, 33 and 48 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 4,914,758 to Shaw. Claim 31 was rejected under 35 U.S.C. §103(a) in view of the '758 patent. Applicant previously argued that the '758 patent does not qualify as prior art under 35 U.S.C. §102(e). The Examiner states that the instant application is a continuation-in-part of the Shaw patent, and has a different inventive entity than that of the Shaw patent.

The present application is a continuation of Application Serial No. 09/277,872, filed March 29, 1999, which is a division of Application Serial No. 08/089,595, filed July 12, 1993, which is a continuation of Application Serial No. 07/822,201, filed January 17, 1992, which is a continuation-in-part of Application Serial No. 07/800,718, filed December 31, 1991, which is a continuation of Application Serial No. 07/607,275, filed October 31, 1990, which is a division of Application Serial No. 07/382,113, filed July 20, 1989.

Daniel Shaw is the sole inventor for the '758 patent. The filing receipt for the present application incorrectly indicates that Daniel Shaw and Donald Bush are co-inventors. However, Mr. Bush was deleted as an inventor following a Petition to Amend Inventorship during prosecution of application Serial No. 09/277,872. The Petition is attached hereto. The present application is a continuation of application Serial No. 09/277,872. The inventorship of the present application has not been changed since the

Petition in the parent application was submitted. As such, Applicant asserts that the inventorship for the present application and for the '758 patent is the same inventive entity, namely Daniel Shaw as sole inventor.

In light of the above, Applicant respectfully requests that the 102(e) rejection of claims 27, 30, 33 and 48 be withdrawn. Likewise, Applicant requests that the 103(a) rejection of claim 31 also be withdrawn.

Claims 48 and 49 were rejected as being anticipated by U.S. Patent No. 4,471,498 to Robertshaw. As previously argued by Applicant in the response filed July 24, 2003, the '498 patent discloses a cistern flushing system, wherein all stalls are flushed at the same time. The '498 patent fails to disclose a system that determines which sensor and associated fixture is requesting operation out of a plurality of sensors, wherein each sensor is associated with a particular fixture from a plurality of fixtures. The '498 patent also fails to disclose a system that delays operation of the particular fixture out of a plurality of fixtures.

In the present invention, operation of a particular fixture may be permitted following a delay, without operation of all of the fixtures. Each sensor is operably associated with a particular fixture, not the entire plurality of fixtures, as in a cistern system. Applicant has amended claim 48 in clarification.

Claims 27, 30, 31, 33, 36, 48 and 49 were rejected as being obvious over Robertshaw, Evenlyn-Veere et al. (U.S. Patent No. 4,176,395), and Atkins et al. (U.S. Patent No. 3,314,081). As previously argued by Applicant, the '498 patent fails to disclose or suggest a system having a microprocessor that delays operation of one of a plurality of fixtures for an adjustable selected period of time after actuation of one of the

sensors. The Examiner states that Evelyn-Veere et al. teaches that it is a matter of choice to implement a controller as either a microprocessor or hard-wired, and that Robertshaw teaches adjusting the delay to desired requirements. Evelyn-Veere et al. is directed to an irrigation control system, and fails to disclose or suggest that the system be selectable and adjustable as in the present invention. Likewise, the Atkins patent fails to disclose or suggest a system that delays operation for an adjustable selected period of time after actuation of a sensor.

The Examiner states that Robertshaw teaches all elements set forth in claims 27, 30 and 36, except for the provision of associating a valve and sensor with individual fixtures. Applicant disagrees, and relies on the arguments set forth in the previous response submitted July 24, 2003, wherein all of the references were distinguished from the present invention.

In addition, the references fail to support an obviousness rejection. The Examiner states, "Since both the Atkins and Robertshaw disclosures are concerned with improvement to periodic interval flushing systems, one skilled in the art would consider implementing perfecting features of one such system into the another to gain the stated benefits thereof." Applicant submits that the obviousness rejection has not been properly made. "When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness." In re Lee, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002). In the present application, the cited references provide no such evidence supporting their combination or modification. The mere fact that the prior art *can* be combined or

modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 16 USPQ2d 1430, 1432 (Fed. Cir. 1990).

Claims 27, 30, 31, 33, 36-39, 48 and 49 were also rejected as being obvious over Robertshaw, Evelyn-Veere and Atkins, in further view of Morris et al. (U.S. Patent No. 4,195,374). The Examiner states that “Applicant has not separately argued this grounds of rejection.” As noted in Applicant’s previous response, Morris et al. mentions the use of lights, but fails to disclose a controller with an adjustable time delay as in the present invention. There is no evidence supporting the Examiner’s combination and modification of features from the cited references to render the resultant combination. Therefore, Applicant asserts that the Examiner has failed to establish a prima facie case of obviousness.

Claims 40-45 were also rejected as being obvious over Robertshaw, Evelyn-Veere, Atkins, Morris et al., as well as Book. The Examiner states that Book discloses a water control system which includes a plurality of switches and a master switch. The Examiner then concludes, “it would have been obvious to one of ordinary skill in the art to associate a plurality of switches and a master switch with the Robertshaw water control system in order to facilitate user control.” This conclusion is improper, and does not support the Examiner’s rejection of obviousness. Applicant submits that the Examiner has failed to establish a prima facie case of obviousness, as set forth by the Federal Circuit.

In light of the amendments and arguments set forth herein, and in Applicant's response submitted July 24, 2003, reconsideration is respectfully submitted. Allowance of all pending claims is earnestly solicited.

Applicant submits herewith a Request for Extension of Time for one month, along with the requisite fee. It is believed that no other fees are due with this submission. Should that determination be incorrect, then please debit Account No. 50-0548 and notify the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. C. Schrot', with a stylized, sweeping flourish at the end.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER R3700

In re application of: Shaw et al.  
(to be changed)

Docket No.: 6278.244

Serial No.: 09/277,872

Examiner: Fetsuga, R.

Filed: March 29, 1999

Group Art Unit: 3751

Title: PLUMBING CONTROL SYSTEM AND METHOD FOR  
PRISONS, AND PUSH BUTTON THEREFOR

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TECHNOLOGY CENTER R3700

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PETITION TO AMEND INVENTORSHIP PURSUANT TO 37 C.F.R. §1.48(b)

June 20, 2001

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Assistant Commissioner for Patents  
Washington, DC 20231on 6/29/01  
Christopher J. Cronin, Reg. No. 48,513

Sir:

Pursuant to 37 C.F.R. §1.48(b), Applicants hereby petition the Commissioner to

amend the inventorship in the above-identified application.

The above-identified application was originally filed on February 26<sup>th</sup>, 1999 along with a Declaration correctly naming Daniel C. Shaw and Donald F. Bush as the inventors thereof. Prosecution of the application resulted in cancellation of some claims and amendment of other claims, such that Donald F. Bush is no longer an actual inventor of the invention being claimed. Hence, Applicants respectfully petition to delete Donald F. Bush as an inventor because his invention is no longer being claimed in the application.

An amendment and request for reconsideration, a letter to the draftsman, a

Terminal Disclaimer, a Statement under 37 CFR 3.73(b), and a request for a three month extension of time have been contemporaneously submitted with a check for \$1,130.00.

The attached check includes the fee for this Petition. Otherwise, it is believed that no fee is required for this submission. Should that determination be incorrect, then please also debit account 50-0548 accordingly, and notify Applicant.

Respectfully submitted,



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